

beginning and end of each interval during which it is used for material protection, but not less frequently than once every seven (7) days.

(e) *Response requirement.* Each licensee shall establish, maintain, and follow an NRC-approved safeguards contingency plan for responding to threats, thefts, and radiological sabotage related to the special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans."

(f) In addition to the fixed-site requirements set forth in this section and in § 73.67, the Commission may require, depending on the individual facility and site conditions, any alternate or additional measures deemed necessary to protect against radiological sabotage at nonpower reactors licensed to operate at or above a power level of 2 megawatts thermal.

[38 FR 35430, Dec. 28, 1973, as amended at 44 FR 68199, Nov. 28, 1979; 57 FR 33431, July 29, 1992; 58 FR 13700, Mar. 15, 1993]

PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL OF MODERATE AND LOW STRATEGIC SIGNIFICANCE

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

(a) *General performance objectives.* (1) Each licensee who possesses, uses or transports special nuclear material of moderate or low strategic significance shall establish and maintain a physical protection system that will achieve the following objectives:

- (i) Minimize the possibilities for unauthorized removal of special nuclear material consistent with the potential consequences of such actions; and
- (ii) Facilitate the location and recovery of missing special nuclear material.

(2) To achieve these objectives, the physical protection system shall provide:

- (i) Early detection and assessment of unauthorized access or activities by an external adversary within the con-

trolled access area containing special nuclear material;

- (ii) Early detection of removal of special nuclear material by an external adversary from a controlled access area;

(iii) Assure proper placement and transfer of custody of special nuclear material; and

- (iv) Respond to indications of an unauthorized removal of special nuclear material and then notify the appropriate response forces of its removal in order to facilitate its recovery.

(b)(1) A licensee is exempt from the requirements of this section to the extent that he possesses, uses, or transports:

- (i) Special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding, or

(ii) Sealed plutonium-beryllium neutron sources totaling 500 grams or less contained plutonium at any one site or contiguous sites, or

- (iii) Plutonium with an isotopic concentration exceeding 80 percent in plutonium-238.

(2) A licensee who has quantities of special nuclear material equivalent to special nuclear material of moderate strategic significance distributed over several buildings may, for each building which contains a quantity of special nuclear material less than or equal to a level of special nuclear material of low strategic significance, protect the material in that building under the lower classification physical security requirements.

(c) Each licensee who possesses, uses, transports, or delivers to a carrier for transport special nuclear material of moderate strategic significance, or 10 kg or more of special nuclear material of low strategic significance shall:

- (1) Submit a security plan or an amended security plan describing how the licensee will comply with all the requirements of paragraphs (d), (e), (f), and (g) of this section, as appropriate, including schedules of implementation. The licensee shall retain a copy of the effective security plan as a record for three years after the close of period for

which the licensee possesses the special nuclear material under each license for which the original plan was submitted. Copies of superseded material must be retained for three years after each change.

(2) Within 30 days after the plan submitted pursuant to paragraph (c)(1) of this section is approved, or when specified by the NRC in writing, implement the approved security plan.

(d) *Fixed site requirements for special nuclear material of moderate strategic significance.* Each licensee who possesses, stores, or uses quantities and types of special nuclear material of moderate strategic significance at a fixed site or contiguous sites, except as allowed by paragraph (b)(2) of this section and except those who are licensed to operate a nuclear power reactor pursuant to part 50, shall:

(1) Use the material only within a controlled access area which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(2) Store the material only within a controlled access area such as a vault-type room or approved security cabinet or their equivalent which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(3) Monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetration or activities,

(4) Conduct screening prior to granting an individual unescorted access to the controlled access area where the material is used or stored, in order to obtain information on which to base a decision to permit such access,

(5) Develop and maintain a controlled badging and lock system to identify and limit access to the controlled access areas to authorized individuals,

(6) Limit access to the controlled access areas to authorized or escorted individuals who require such access in order to perform their duties,

(7) Assure that all visitors to the controlled access areas are under the constant escort of an individual who has been authorized access to the area,

(8) Establish a security organization or modify the current security organization to consist of at least one watch-

man per shift able to assess and respond to any unauthorized penetrations or activities in the controlled access areas,

(9) Provide a communication capability between the security organization and appropriate response force,

(10) Search on a random basis vehicles and packages leaving the controlled access areas, and

(11) Establish and maintain written response procedures for dealing with threats of thefts or thefts of these materials. The licensee shall retain a copy of the response procedures as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the original procedures were developed and, for three years thereafter. Copies of superseded material must be retained for three years after each change.

(e) *In-transit requirements for special nuclear material of moderate strategic significance.* (1) Each licensee who transports, exports or delivers to a carrier for transport special nuclear material of moderate strategic significance shall:

(i) Provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) Receive confirmation from the receiver prior to the commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) Check the integrity of the container and locks or seals prior to shipment, and

(iv) Arrange for the in-transit physical protection of the materials in accordance with the requirements of § 73.67(e)(3) unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(2) Each licensee who receives special nuclear material of moderate strategic significance shall:

(i) Check the integrity of the containers and seals upon receipt of the shipment,

(ii) Notify the shipper of receipt of the material as required in § 70.54 of this chapter, and

(iii) Arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.67(e)(3) unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee who arranges for the in-transit physical protection of special nuclear material of moderate strategic significance, or who takes delivery of this material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) Arrange for telephone or radio communications between the transport and the licensee or its designee: (A) To periodically confirm the status of the shipment (B) for notification of any delays in the scheduled shipment, and (C) to request appropriate local law enforcement agency response in the event of an emergency.

(ii) Minimize the time that the material is in transit by reducing the number and duration of nuclear material transfers and by routing the material in the most safe and direct manner,

(iii) Conduct screening of all licensee employees involved in the transportation of the material in order to obtain information on which to base a decision to permit them control over the material,

(iv) Establish and maintain written response procedures for dealing with threats of thefts or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after the close of period for which the licensee possesses the special nuclear material under each license for which the original procedures were developed and copies of superseded material must be retained for three years after each change.

(v) Make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(vi) Initiate immediately a trace investigation of any shipment that is determined to be lost or unaccounted for after a reasonable time beyond the estimated arrival time.

(vii) Notify the NRC Operations Center¹ within one hour after the discovery of the loss of the shipment and within one hour after recovery of or accounting for such lost shipment in accordance with the provisions of § 73.71 of this part.

(4) Each licensee who arranges the physical protection of strategic special nuclear material in quantities of moderate strategic significance while in transit or who takes delivery of this material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall comply with the requirements of paragraphs (e) (1), (2), and (3) of this section. The licensee shall retain each record required by paragraphs (e) (1), (2), (3), and (4) (i) and (ii) of this section for three years after close of period licensee possesses special nuclear material under each license that authorizes these licensee activities. Copies of superseded material must be retained for three years after each change. In addition, the licensee shall—

(i) Make all shipments of the material either (A) in dedicated transports with no intermediate stops to load or unload other cargo and with no carrier or vehicle transfers or temporary storage in-transit, or (B) under arrangements whereby the custody of the shipment and all custody transfers are acknowledged by signature, and

(ii) Maintain the material under lock or under the control of an individual who has acknowledged acceptance of custody of the material by signature.

(5) Each licensee who exports special nuclear material of moderate strategic significance shall comply with the requirements specified in paragraphs (c) and (e) (1), (3), and (4) of this section. The licensee shall retain each record required by these sections for three years after the close of period for which the licensee possesses the special nuclear material under each license that authorizes the licensee to export

¹Commercial telephone number of the NRC Operations Center is (301) 816-5100.

this material. Copies of superseded material must be retained for three years after each change.

(6) Each licensee who imports special nuclear material of moderate strategic significance shall,

(i) Comply with the requirements specified in paragraphs (c) and (e) (2), (3), and (4) of this section. The licensee shall retain each record required by these sections for three years after the close of period for which the licensee possesses the special nuclear material under each license that authorizes the licensee to import this material. Copies of superseded material must be retained for three years after each change.

(ii) Notify the exporter who delivered the material to a carrier for transport of the arrival of such material.

(7) If, after receiving advance notice pursuant to § 73.72 from a licensee planning to import, export, transport, deliver to a carrier for transport in a single shipment, or take delivery at the point where it is delivered to a carrier, special nuclear material of moderate strategic significance containing in any part strategic special nuclear material, it appears to the Commission that two or more shipments of special nuclear material of moderate strategic significance, constituting in the aggregate an amount equal to or greater than a formula quantity of strategic special nuclear material, may be en route at the same time, the Commission may order one or more of the shippers to delay shipment according to the following provisions:

(i) The shipper shall provide to the Commission, upon request, such additional information regarding a planned shipment as the Commission considers pertinent to the decision on whether to delay such shipment.

(ii) The receiver of each shipment, or the shipper if the receiver is not a licensee, shall notify the Administrator of the appropriate Nuclear Regulatory Commission Regional Office listed in appendix A by telephone, no later than 24 hours after arrival of such shipment at its final destination, or after such shipment has left the United States as an export, to confirm the integrity of the shipment at the time of receipt or exit from the United States.

(iii) The Commission shall notify the affected shippers no later than two days before the scheduled shipment date that a given shipment is to be delayed.

(iv) Shipments of special nuclear material of moderate strategic significance which are protected in accordance with the provisions of §§ 73.20, 73.25, and 73.26 shall not be subject to orders to delay shipment nor considered to constitute a portion of an aggregate formula quantity of strategic special nuclear material for the purposes of determining whether any shipments must be delayed.

(f) *Fixed site requirements for special nuclear material of low strategic significance.* Each licensee who possesses, stores, or uses special nuclear material of low strategic significance at a fixed site or contiguous sites, except those who are licensed to operate a nuclear power reactor pursuant to part 50, shall:

(1) Store or use the material only within a controlled access area,

(2) Monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetrations or activities,

(3) Assure that a watchman or offsite response force will respond to all unauthorized penetrations or activities, and

(4) Establish and maintain response procedures for dealing with threats of thefts or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after the close of period for which the licensee possesses the special nuclear material under each license for which the procedures were established. Copies of superseded material must be retained for three years after each change.

(g) *In-transit requirements for special nuclear material of low strategic significance.* (1) Each licensee who transports or who delivers to a carrier for transport special nuclear material of low strategic significance shall:

(i) Provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) Receive confirmation from the receiver prior to commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) Transport the material in a tamper indicating sealed container,

(iv) Check the integrity of the containers and seals prior to shipment, and

(v) Arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.67(g)(3) of this part, unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(2) Each licensee who receives quantities and types of special nuclear material of low strategic significance shall:

(i) Check the integrity of the containers and seals upon receipt of the shipment,

(ii) Notify the shipper of receipt of the material as required in § 70.54 of part 70 of this chapter, and

(iii) Arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.67(g)(3) of this part, unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of low strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) Establish and maintain response procedures for dealing with threats or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after the close of period for which the licensee possesses the special nuclear material under each license for which the procedures were established. Copies of superseded material must be retained for three years after each change.

(ii) Make arrangements to be notified immediately of the arrival of the ship-

ment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(iii) Conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and notify the NRC Operations Center¹ within one hour after the discovery of the loss of the shipment and within one hour after recovery of or accounting for such lost shipment in accordance with the provisions of § 73.71 of this part.

(4) Each licensee who exports special nuclear material of low strategic significance shall comply with the appropriate requirements specified in paragraphs (c) and (g) (1) and (3) of this section. The licensee shall retain each record required by these sections for three years after the close of period for which the licensee possesses the special nuclear material under each license that authorizes the licensee to export this material. Copies of superseded material must be retained for three years after each change.

(5) Each licensee who imports special nuclear material of low strategic significance shall:

(i) Comply with the requirements specified in paragraphs (c) and (g) (2) and (3) of this section and retain each record required by these paragraphs for three years after the close of period for which the licensee possesses the special nuclear material under each license that authorizes the licensee to import this material. Copies of superseded material must be retained for three years after each change.

(ii) Notify the person who delivered the material to a carrier for transport of the arrival of such material.

[44 FR 43283, July 24, 1979. Redesignated at 44 FR 68198, Nov. 28, 1979, and amended at 45 FR 19215, Mar. 25, 1980; 47 FR 19114, May 4, 1982; 52 FR 21657, June 9, 1987; 53 FR 19260, May 27, 1988; 57 FR 33431, July 29, 1992, 59 FR 14087, Mar. 25, 1994]

¹Commercial telephone number of the NRC Operation Center is (301) 816-5100.

RECORDS AND REPORTS

§ 73.70 Records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records. Each licensee subject to the provisions of §§ 73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.55, or 73.60 shall keep the following records:

(a) Names and addresses of all individuals who have been designated as authorized individuals. The licensee shall retain this record of currently designated authorized individuals for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license that authorizes the activity that is subject to the recordkeeping requirement and, for three years thereafter. Copies of superseded material must be retained for three years after each change.

(b) Names, addresses, and badge numbers of all individuals authorized to have access to vital equipment or special nuclear material, and the vital areas and material access areas to which authorization is granted. The licensee shall retain the record of individuals currently authorized this access for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license that authorizes the activity that is subject to the recordkeeping requirement and, for three years thereafter.

Copies of superseded material must be retained for three years after each change.

(c) A register of visitors, vendors, and other individuals not employed by the licensee pursuant to §§ 73.46(d)(13), 73.55(d)(6), or 73.60. The licensee shall retain this register as a record, available for inspection, for 3 years after the last entry is made in the register.

(d) A log indicating name, badge number, time of entry, and time of exit of all individuals granted access to a vital area except those individuals entering or exiting the reactor control room. The licensee shall retain this log as a record for three years after the last entry is made in the log.

(e) Documentation of all routine security tours and inspections, and of all tests, inspections, and maintenance performed on physical barriers, intrusion alarms, communications equipment, and other security related equipment used pursuant to the requirements of this part. The licensee shall retain the documentation for these events for three years from the date of documenting each event.

(f) A record at each onsite alarm annunciation location of each alarm, false alarm, alarm check, and tamper indication that identifies the type of alarm, location, alarm circuit, date, and time. In addition, details of response by facility guards and watchmen to each alarm, intrusion, or other security incident shall be recorded. The licensee shall retain each record for three years after the record is made.

(g) Shipments of special nuclear material subject to the requirements of this part, including names of carriers, major roads to be used, flight numbers in the case of air shipments, dates and expected times of departure and arrival of shipments, verification of communication equipment on board the transfer vehicle, names of individuals who are to communicate with the transport vehicle, container seal descriptions and identification, and any other information to confirm the means utilized to comply with §§ 73.25, 73.26, and 73.27. This information must be recorded